

JC03 Rec'd CT/PTO 03 MAY 2005

DISC no 542

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

|                        |                 |
|------------------------|-----------------|
| Application Number     | 10/508,932      |
| Filing Date            | March 27, 2003  |
| First Named Inventor   | James C. Willey |
| Art Unit               | Conf. # 9878    |
| Examiner Name          |                 |
| Attorney Docket Number | 04132           |

## ENCLOSURES (Check all that apply)

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input checked="" type="checkbox"/> Fee Attached<br><input checked="" type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br><input type="checkbox"/> Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC<br><input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):<br>Return Postcard<br>"Sequence Listing"<br>Notice To Comply ... |
|--|--|--|

Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |   |          |        |
|--------------|---|----------|--------|
| Firm Name    | Emch, Schaffer, Schaub & Porcello Co., L.P.A. |          |        |
| Signature    | <i>Patrick P. Pacella</i>                     |          |        |
| Printed name | Patrick P. Pacella                            |          |        |
| Date         | <i>May 3, 2005</i>                            | Reg. No. | 25,463 |

## CERTIFICATE OF TRANSMISSION/MAILING Express Mail: EV 439670991

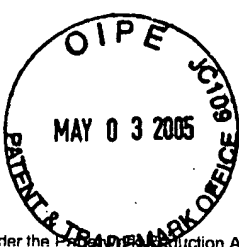
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as ~~first class~~ **Express** mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: **Express**

|                       |                         |
|-----------------------|-------------------------|
| Signature             | <i>Kathy A. Burgess</i> |
| Typed or printed name | Kathy A. Burgess        |

|      |               |
|------|---------------|
| Date | <i>5/3/05</i> |
|------|---------------|

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Privacy Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
**For FY 2005**☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 580.00

**Complete if Known**

|                      |                 |
|----------------------|-----------------|
| Application Number   | 10/508,932      |
| Filing Date          | March 27, 2003  |
| First Named Inventor | James C. Willey |
| Examiner Name        |                 |
| Art Unit             | Conf. # 9878    |
| Attorney Docket No.  | 04132           |

**METHOD OF PAYMENT (check all that apply)**☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 15-0825 Deposit Account Name: Owen & Owen

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |                |
| Utility          | 300         | 150                   | 500         | 250                   | 200              | 100                   |                |
| Design           | 200         | 100                   | 100         | 50                    | 130              | 65                    |                |
| Plant            | 200         | 100                   | 300         | 150                   | 160              | 80                    |                |
| Reissue          | 300         | 150                   | 500         | 250                   | 600              | 300                   |                |
| Provisional      | 200         | 100                   | 0           | 0                     | 0                | 0                     |                |

**2. EXCESS CLAIM FEES****Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)

Small Entity Fee (\$)

50 25

Each independent claim over 3 (including Reissues)

200 100

Multiple dependent claims

360 180

|                 |              |          |               |
|-----------------|--------------|----------|---------------|
| Total Claims    | Extra Claims | Fee (\$) | Fee Paid (\$) |
| - 20 or HP = 85 | x            |          | 300.00        |

HP = highest number of total claims paid for, if greater than 20.

|                |              |          |               |
|----------------|--------------|----------|---------------|
| Indep. Claims  | Extra Claims | Fee (\$) | Fee Paid (\$) |
| - 3 or HP = 10 | x            |          | 100.00        |

HP = highest number of independent claims paid for, if greater than 3.

**Multiple Dependent Claims**

Fee (\$)

Fee Paid (\$)

180.00

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

|              |              |  |          |               |
|--------------|--------------|--|----------|---------------|
| Total Sheets | Extra Sheets | Number of each additional 50 or fraction thereof | Fee (\$) | Fee Paid (\$) |
| - 100 =      | / 50 =       | (round up to a whole number) x                   |          |               |

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Fees Paid (\$)

Other (e.g., late filing surcharge):

**SUBMITTED BY**

|                   |                    |                                   |        |           |              |
|-------------------|--------------------|-----------------------------------|--------|-----------|--------------|
| Signature         |                    | Registration No. (Attorney/Agent) | 25,463 | Telephone | 419-243-1294 |
| Name (Print/Type) | Patrick P. Pacella | Date                              | 5/3/05 |           |              |

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



04132

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

James C. Willey

Serial No: 10/508,932

Filed: March 27, 2003

For: METHOD AND COMPOSITION FOR THE DIAGNOSIS AND TREATMENT  
OF NON-SMALL CELL LUNG CANCER USING GENE EXPRESSION  
PROFILES

Exr.

Art Unit:

Confirmation No.: 9878

Commissioner of Patents  
and Trademarks  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

May 3, 2005

**RESPONSE**

Sir:

This is in response to the Notification To Comply With Requirements For  
Patent Applications Containing Nucleotide and/or Amino Acid Sequence  
Disclosures mailed March 25, 2005, enclosing a check in the amount of  
\$580.00 as a small entity, for additional claim fees and an electronic copy of  
the Sequence Listing under 37 CFR 1.821(e) and PCT Rule 13ter.1(a)(ii).

05/11/2005 GFREY1 00000094 10508932

|            |           |
|------------|-----------|
| 01 FC:2615 | 300.00 OP |
| 02 FC:2614 | 100.00 OP |
| 03 FC:2616 | 180.00 OP |

10/666,090

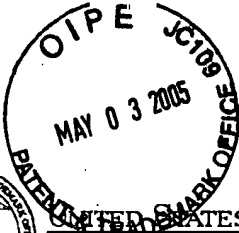
Respectfully submitted,

EMCH, SCHAFFER, SCHAUB  
& PORCELLO CO., L.P.A.

A handwritten signature in black ink, appearing to read 'Patrick P. Pacella', with a long horizontal line extending to the right.

Patrick P. Pacella  
Reg. No.: 25,463

P.O. Box 916  
Toledo, Ohio 43697  
Ph: (419) 243-1294  
Fax (419) 243-8502



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

|   |   |                           |
|---|---|---------------------------|
| U.S. APPLICATION NUMBER NO.<br>10/508,932 | FIRST NAMED APPLICANT<br>James C Willey | ATTY. DOCKET NO.<br>04132 |
|---|---|---------------------------|

|                               |
|-------------------------------|
| INTERNATIONAL APPLICATION NO. |
|-------------------------------|

PCT/US03/09428

|                                |                             |
|--------------------------------|-----------------------------|
| I.A. FILING DATE<br>03/27/2003 | PRIORITY DATE<br>03/28/2002 |
|--------------------------------|-----------------------------|

20879  
 EMCH, SCHAFFER, SCHAUB & PORCELLO CO  
 P O BOX 916  
 ONE SEAGATE SUITE 1980  
 TOLEDO, OH 43697

4/6/05

CONFIRMATION NO. 9878

371 FORMALITIES LETTER



\*OC000000015568725\*

Date Mailed: 03/25/2005

## NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

The applicant needs to satisfy supplemental fees problems indicated below.

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Additional claim fees of **\$580** as a small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due.

### SUMMARY OF FEES DUE:

Total additional fees required for this application is **\$580** for a Small Entity:

The following items **MUST** be furnished within the period set forth below:

- The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 CFR 1.821-1.825 for the following reason(s):
  - A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e) and PCT Rule 13ter.1(a)(ii).
  - APPLICANT MUST PROVIDE:
    - An initial or substitute computer readable form (CRF) of the "Sequence Listing."
- For questions regarding compliance to 37 CFR 1.821-1.825 requirements, please contact:
  - For Rules Interpretation, call (703) 308-4216
  - To Purchase PatentIn Software, call (703) 306-2600
  - For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

- Total additional claim fee(s) for this application is \$ 580
  - \$100 for 10 independent claims over 3.
  - \$300 for 85 total claims over 20.
  - \$180 for multiple dependent claim surcharge.

**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTHS FROM THE DATE OF THIS NOTICE OR BY 32 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

*A copy of this notice **MUST** be returned with the response.*

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

**PART 1 - ATTORNEY/APPLICANT COPY**

| U.S. APPLICATION NUMBER NO. | INTERNATIONAL APPLICATION NO. | ATTY. DOCKET NO. |
|-----------------------------|-------------------------------|------------------|
| 10/508,932                  | PCT/US03/09428                | 04132            |

FORM PCT/DO/EO/922 (371 Formalities Notice)